R. Co. v. *Puritan Coal Mining Co.*, 237 U. S. 121; *Udall Milling Co.* v. *Atchison, etc. Ry. Co., supra; Cumbie* v. *St. Louis, etc. Ry. Co.*, 105 Ark. 415, 151 S. W. 240. See *Illinois Central R. Co.* v. *River & Rail Coal & Coke Co.*, 150 Ky. 489, 493, 150 S. W. 641, 643. Hence the decision seems clearly sound.

DESCENT AND DISTRIBUTION — WHAT CONSTITUTES ADVANCEMENT. — A court of equity ordered that payments from the surplus income of a lunatic's estate be made from time to time to next of kin whom the lunatic when sane was in the habit of assisting financially. *Held*, that these payments were gifts. *In re The Farmers' Loan and Trust Co., Administrator*, 58 N. Y. L. J. 1565.

Whether or not a payment by an intestate during his lifetime is to be treated as an advancement rests on the intent of the intestate. *Cowles* v. *Cowles*, 56 Conn. 240, 13 Atl. 414. In the case of a payment to a child of the intestate, or to a person to whom the intestate stands *in loco parentis*, the presumption is in favor of an advancement. *Carmichael* v. *Lathrop*, 108 Mich. 473, 66 N. W. 350. A court of equity in ordering payments to be made from the estate of a lunatic acts not on any supposed interest in the property on the part of the beneficiaries but upon the principle that the court will act with reference to the lunatic, and for his benefit, as it is probable the lunatic himself would have acted, if of sound mind. *Ex parte Whitbread*, 2 Mer. 99. On these principles the present decision is clearly sound.

ILLEGAL CONTRACTS — CONTRACTS AGAINST PUBLIC POLICY — INCIDENTAL RESTRAINT OF MARRIAGE. — Plaintiff's intestate promised to transfer his entire property to defendant in case the latter managed the estate until the death of intestate and remained unmarried during that period. In proceedings to settle the estate, defendant filed a cross bill for performance of this agreement. *Held*, that the agreement is valid, and that defendant is entitled to the relief sought. *Fletcher* v. *Osborn*, 118 N. E. 446 (Ill.).

In a majority of the cases raising similar considerations, the decisions are in accord with the principal case. *King* v. *King*, 63 Ohio St. 363, 59 N. E. 111. *Crowder-Jones* v. *Sullivan*, 9 Ont. L. R. 27. *Contra, Lowe* v. *Doremus*, 84 N. J. L. 658, 87 Atl. 459. There is nothing intrinsically illegal in abstaining from marriage, but public policy does not favor agreements tending to a restraint thereof. The principal case marks out what is conceived to be a reasonable limitation of this doctrine, namely, that the contract is not vitiated where the restraint is merely incidental to the main object thereof. It is generally held that this rule is not applicable to the analogous cases of contracts incidentally effecting a restraint of trade. *Bishop* v. *Palmer*, 146 Mass. 469, 16 N. E. 299; *Saratoga Bank* v. *King*, 44 N. Y. 87. But the distinction in result is probably sound, as there is a stronger policy against restraint in the latter type of case. See 14 HARV. L. REV. 614.

INJUNCTION — ACTS RESTRAINED — PUBLICATION OF PERSONAL LETTERS. — The defendant had obtained personal letters written by one of the plaintiffs to the other, and had deposited the letters with a court in a divorce proceeding against the writer. This proceeding being concluded she applied to the court for the letters for the purpose of publishing them. The plaintiff brought a bill to enjoin the giving of the letters to her and the publication of them by her. *Held*, that the injunction be granted, to protect the property right of the plaintiffs in the letters. *King* v. *King*, 168 Pac. 730 (Wyo.).

Courts of equity since the time of Lord Eldon have not hesitated to enjoin the recipient of private letters, or third parties, from publishing them. The jurisdiction of equity was based, by Lord Eldon, upon the securing of the property interest of the writer in his personal letters. *Gee* v. *Pritchard*, 2 Swanst. 402. Property in personal letters, which are without historical, literary, or

autographical value is, however, such an unsubstantial and trivial interest that equity would dismiss the suit as vexatious, were it not for the interest of personality involved. The real interest protected by the court is not a property interest but the interest of personality of the writer. See Roscoe Pound, "Equitable Relief Against Defamation and Injuries to Personality," 29 HARV. L. REV. 640, 643, 671. The courts have, however, almost universally put the jurisdiction of equity on the basis of protection of property interests. *Woolsey Judd*, 4 Duer (N. Y.) 379; *Baker* v. *Libbie*, 210 Mass. 599, 97 N. E. 109; *Labouchere* v. *Hess*, 77 L. T. (N. S.) 559. See *Folsom* v. *Marsh*, 2 Story (U. S. Dist. Ct.) 100, 110. It is only by *dicta* that a few courts have asserted that equity will protect the rights of personality in such cases, apart from any property right. See *Vanderbilt* v. *Mitchell*, 72 N. J. Eq. 910, 919, 67 Atl. 97, 100; *Itzkowitz* v. *Whitaker*, 115 La. 479, 480; 39 So. 499, 500, 117 La. 708, 710, 42 So. 228, 229; *Munden* v. *Harris*, 153 Mo. App. 652, 659, 134 S. W. 1076, 1079.

INTERSTATE COMMERCE — CONTROL BY STATE — POLICE POWER OF STATE — INTEREST OF PUBLIC HEALTH — PROHIBITION OF CONDENSED MILK MADE OF SKIMMED MILK. — The plaintiffs, manufacturers of a compound of evaporated skimmed milk and vegetable fat, a wholesome product, properly labeled under the Federal Pure Food Act, sought to enjoin the enforcement of an Ohio statute prohibiting the manufacture and sale of condensed milk made from skimmed milk, on the ground that it was unconstitutional. (OHIO GEN. CODE, § 12725.) The milk was manufactured and shipped from without the state into Ohio for sale. *Held*, that relief be denied. *Hebe Co.* v. *Calvert*, 246 Fed. 711.

It is clear that a state in the exercise of its police power may enact laws which will be valid, though they indirectly affect interstate commerce. *Savage* v. *Jones*, 225 U. S. 501; *Hennington* v. *Georgia*, 163 U. S. 299. A statute, however, palpably directed at evading the commerce clause is objectionable. *Welton* v. *Missouri*, 91 U. S. 275; *Walling* v. *Michigan*, 116 U. S. 446. A state regulation must not exceed the exigencies of the case. *Railroad Co.* v. *Husen*, 95 U. S. 465. Nor may it render unsalable articles of interstate commerce. *Collins* v. *New Hampshire*, 171 U. S. 30. The question in the particular case must be: Is the interference with interstate commerce unreasonable? This involves balancing the importance and necessity of police regulation on the one hand and the extent of encroachment on interstate commerce on the other. Police power may justify a statute as due process under the Fourteenth Amendment. *Powell* v. *Pennsylvania*, 127 U. S. 678. But only a necessary exercise of that power will justify interference with interstate commerce. *Schollenberger* v. *Pennsylvania*, 171 U. S. 1. A drastic state law prohibiting the sale of oleomargarine, so colored as to resemble butter, has been upheld by the Supreme Court as a legitimate police provision against fraud. *Plumley* v. *Massachusetts*, 155 U. S. 461. The principal case follows that decision and sanctions a statute equally as paternalistic, arguing that despite the proper label, some one may be deceived.

INTERSTATE COMMERCE — INTERSTATE COMMERCE COMMISSION — ORDER OF THE COMMISSION INOPERATIVE THROUGH UNCERTAINTY. — An Illinois statute prohibited any intra-state passenger rate in excess of two cents per mile. Certain carriers having raised the interstate rate to 2.4 cents per mile, the Interstate Commerce Commission found this created a discrimination between intra-state and interstate shipments, and ordered the railroads to desist from "collecting passenger fares between St. Louis, Missouri, and points in Illinois upon a basis higher than 2.4 cents per mile, . . . which basis was found reasonable . . ., or higher than the fares contemporaneously exacted between East St. Louis, Illinois, and the same Illinois points." The carriers raised